

# MANDATE

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

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E.D.N.Y.-Bklyn  
19-cv-825  
18-cv-873  
Donnelly, J.  
Scanlon, M.J.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 21<sup>st</sup> day of April, two thousand twenty-one.

Present:

Dennis Jacobs,  
Denny Chin,  
*Circuit Judges,*  
J. Paul Oetken,  
*District Judge.\**

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Gary McMullen,

*Plaintiff-Appellant,*

Numbered Account 2514901 Ontario, Inc.,

*Movant-Appellant,*

v.

20-3705 (L),  
20-3710 (Con)

Troy Hamilton, et al.,

*Defendants-Appellees.*

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Robert Tilton, Cross Country Media and Sourcing, Inc.,  
Joseph Badolato, Michael Margulis, and Joseph Buck,

*Plaintiffs-Appellees,*

v.

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\* Judge J. Paul Oetken, of the United States District Court for the Southern District of New York, sitting by designation.

Gary McMullen, Numbered Account 2514901 Ontario, Inc.,

*Interested Party-Appellants,*

v.

Synergy Pharmaceuticals Inc., et al.,

*Defendants-Appellees.*

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Defendants-Appellees move to dismiss these two appeals for lack of jurisdiction. Plaintiffs-Appellees move to amend the caption. Upon due consideration, it is hereby ORDERED that the motion to amend the caption is GRANTED, and the Clerk of Court is directed to amend the docket consistent with the caption presented in the exhibit to that motion.

It is further ordered that the motion to dismiss is GRANTED. This Court has determined that it lacks jurisdiction over these appeals because a final order has not been issued by the district court as contemplated by 28 U.S.C. § 1291 and no other basis for immediate appeal exists. *In re Roman Catholic Diocese of Albany, N.Y., Inc.*, 745 F.3d 30, 35 (2d Cir. 2014); *In re Repetitive Stress Injury Litig.*, 11 F.3d 368, 372 (2d Cir. 1993). Any party's claim effectively dismissed by the challenged order can be the subject of an appeal from the final judgment, and any non-party's claim can be the subject of appeal from an order denying a motion to intervene brought for the purpose of presenting that claim in the litigation. *See Ashmore v. CGI Grp., Inc.*, 860 F.3d 80, 85-86 (2d Cir. 2017).

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

  


A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

  
